

Ontario. Environmental Assessment Board.

OC-92-01(F)

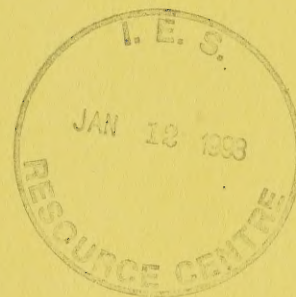
NIAGARA ROAD 12 SITE PARTICIPANT FUNDING PROGRAM. 1993.



Ontario



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ENVIRONMENTAL ASSESSMENT BOARD

OC-92-01(F)

NIAGARA ROAD 12 SITE PARTICIPANT FUNDING PROGRAM

IN THE MATTER OF Participant Funding provided by the Grimsby, Pelham, Lincoln and West Lincoln Waste Management Committee to groups or individuals or both in advance of the time when funding would normally be made available, pursuant to the *Intervenor Funding Project Act, 1988*, with respect to the proposed *Environmental Assessment Act* and Part V of the *Environment Protection Act* applications dealing with the Niagara Road 12 Site landfill component of the Grimsby, Pelham, Lincoln and West Lincoln Waste Management Plan;

- and -

IN THE MATTER OF an Order In Council O.C. 3171/92 authorizing the Environmental Assessment Board to provide a member to act as a Funding Panel to determine the distribution of funds provided by the Grimsby, Pelham, Lincoln and West Lincoln Waste Management Committee for Participant Funding.

David Evans - Funding Panel

DATED at TORONTO this 4TH day of JANUARY, 1993

Earth Sciences Library

2300 Yonge Street

Suite 1201

Toronto, Ontario M4P 1E4

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**NIAGARA ROAD 12 SITE
PARTICIPANT FUNDING PROGRAM**

IN THE MATTER OF Participant Funding provided by the Grimsby, Pelham, Lincoln and West Lincoln Waste Management Committee to groups or individuals or both in advance of the time when funding would normally be made available, pursuant to the *Intervenor Funding Project Act, 1988*, with respect to the proposed *Environmental Assessment Act* and Part V of the *Environment Protection Act* applications dealing with the Niagara Road 12 Site landfill component of the Grimsby, Pelham, Lincoln and West Lincoln Waste Management Plan;

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IN THE MATTER OF an Order In Council O.C. 3171/92 authorizing the Environmental Assessment Board to provide a member to act as a Funding Panel to determine the distribution of funds provided by the Grimsby, Pelham, Lincoln and West Lincoln Waste Management Committee for Participant Funding.

David Evans - Funding Panel

BACKGROUND

In Order In Council O.C. 3171/92 the Government of Ontario requests that the Environmental Assessment Board provide a member to act as a Funding Panel to determine the distribution of participant funding provided by the Grimsby, Pelham, Lincoln and West Lincoln Waste Management Committee.

The participant funding is primarily to help groups and individuals to participate in the preparation of a community impact agreement. The agreement is to ensure suitable mitigation and compensation to those affected by potential or actual impacts resulting from the establishment and operation of the Grimsby, Pelham, Lincoln and West Lincoln Waste Management Committee's (the Proponent) proposed Niagara Road #12 Landfill site.

The participant funding can also be used for the more general purpose of helping those who lack the necessary resources to review the documentation and inform themselves of the process and issues involved in the landfill component of the Proponent's Waste Management Master Plan.

The overall goal of the participant funding is to provide the directly affected community with the resources to work with the Proponent to address landfill-related issues so there may be no need for a hearing under the *Environmental Assessment Act*.

The funding available totals \$250,000.

Notice of the participant funding program was made in a manner agreed upon between the Environmental Assessment Board and the Proponent. In addition to a notice in the newspaper (See Appendix A), a copy of the notice was sent to those living within a 1.6 km radius of the proposed landfill site.

The notification explained the purpose of the funding and advised people of a public meeting scheduled for Saturday, December 5, 1992. The meeting was to establish who, in general terms, would be eligible for funding and the criteria for the distribution of the funding. As well, the process for applying for the funding was to be discussed.

THE DECEMBER 5, 1992 PUBLIC MEETING

The December 5th public meeting was held at the Town of Grimsby Municipal Building. Twenty-seven people (fifteen from the community) attended the meeting. (See Appendix B)

The meeting was informal.

It was explained there were three possible approaches to determining how to distribute the funding:

1. an informal negotiation process, with the funding panel acting as a facilitator with the objective of reaching an agreement between those requesting funding and the Proponent; the Funding Panel would confirm the agreement(s);
2. an informal negotiation process, with the funding panel acting as a facilitator; the Funding Panel would make a decision on any areas of disagreement between those requesting funding and the Proponent and would confirm areas of agreement; or
3. a formal hearing.

The first approach was preferred. It was acknowledged that if an impasse was reached, the second approach would be used.

Everyone then introduced themselves. They also said whether or not they would be requesting funding.

Three individuals and the Landfill Concerned Citizens Group identified that they either were considering requesting funding or were requesting funding.

In a discussion of the Order In Council, the following points were emphasized and accepted:

1. The funding is participant funding, not intervenor funding. The funding is not to be used to prepare for a hearing.

2. The primary purpose of the funding is for preparing a community impact agreement.

The more general purpose of the funding is to allow people to review the documentation and to familiarize themselves with the landfill component of the Proponent's Waste Management Master Plan.

The overall goal of the project is to try to avoid a hearing by developing an acceptable community impact agreement.

3. The amount of funding provided by the Proponent is not a target for those requesting funding.
4. Anyone within a 1.6 km radius of the proposed landfill site is eligible to apply for and receive funding.
5. Wherever possible, individual interests will be represented through the Landfill Concerned Citizens Group. (Two of the individuals who showed an interest in requesting funding agreed to explore whether their interest could be represented by the Group. The Group agreed to continue to contact and try to involve others in the community who were not members of the Group.)
6. Time spent by those in the community who work on the project is considered fund raising.
7. Appropriate financial controls are required of anyone receiving funding.
8. All issues and concerns are to be brought to the attention of the Proponent. No issues or concerns are to be withheld for use in a hearing, should one be required.
9. Anyone receiving funding can apply for supplementary funding. This additional funding is for completing the community impact agreement. It is not to be used as intervenor funding.
10. Everyone receiving funding is to share all information/reports with other interested parties and with the Proponent.

The funding application form was briefly reviewed.

In addition to describing how issues and concerns will be brought to the attention of the Proponent, the participants agreed to outline the specific issues and concerns they have with the proposed landfill.

Everyone agreed that the funding applications would be due to the Environmental Assessment Board by 4:00 p.m. on Monday, December 14, 1992.

The next meeting was set for 7:30 p.m. on Monday, December 21, 1992. Those requesting funding were to try to negotiate an agreement directly with the Proponent before that meeting.

APPLICATIONS FOR FUNDING

Two applications for funding were received:

- The Landfill Concerned Citizens Group (the Group) requested a total of \$210,240.50. (It was later explained that a \$35,000 entry had mistakenly been added into the requested amount.)
- Mary and Stanley Las requested a total of \$3,000.

A copy of the applications was made available to the Proponent and to the two requesting funding.

In discussing the applications with the applicants and the Proponent, it became clear to the Funding Panel that there were some areas of disagreement. The Funding Panel encouraged direct negotiations between the Proponent and the applicants to resolve these disagreements.

THE DECEMBER 21, 1992 MEETING

The December 21st meeting was held at the Grimsby Senior Citizens Centre. Sixteen people (nine from the community) attended this meeting. (See Appendix C)

It was confirmed that the Funding Panel would continue to act as a facilitator to reach a negotiated agreement. However, it was also agreed that if a negotiated solution on every point could not be reached, the Funding Panel would make a decision that evening. This would allow for the funded work to proceed.

The December 16, 1992 letter to Mr. Manfred Rudolph, counsel for the Landfill Concerned Citizens Group, from the Honourable Ruth Grier, Minister of the Environment, was then discussed.

In the letter, the Minister said she would not extend the official review period for the environmental assessment of the proposed Niagara Road #12 landfill site. The deadline for receiving requests for a hearing would remain as December 21, 1992. However, the Minister said she would not decide on the need for a hearing until the first week of February, 1993.

Mr. Rudolph and members of the Group said letters requesting a hearing had been filed by the Group, individual members of the Group and some non-members.

Mr. T.A. Richardson, counsel for the Proponent, wanted to know what impact an acceptable community impact agreement would have on the requests for a hearing filed by individuals.

The Group agreed it should work toward a group solution supported by all of its members (and non-members, if possible) using an inclusive review process.

Mr. Rudolph, in a letter to the Funding Panel dated December 19, 1992, said the Group is undertaking the following procedure:

1. Background documentation, Proponent reports and general community concerns were delivered on December 23, 1992 to the funded consultants identified in the Funding Panel's oral decision of December 21, 1992.
2. The funded consultants and counsel for the Group will review the Proponent's background reports and meet during January, 1993.
3. The members of the Group's community liaison subcommittee will interview all group and non-group members (if they wish to be interviewed) during January, 1993.
4. Counsel, the funded consultants and the Group executive or community liaison subcommittee members will meet to discuss the initial review. Immediately following this meeting, it is contemplated that a meeting/workshop will be held so members of the community can communicate with the consultants.
5. Counsel and the funded consultants will meet to discuss the initial review and determine the need for interrogatories.
6. If interrogatories are necessary, counsel and the funded consultants will draft, revise and finalize the interrogatories and provide them to the Proponent for a response. This process will continue until the consultants and counsel are satisfied that enough information or investigation has been completed to assess properly the undertaking or the application and any identified issues and concerns.
7. There will be a further meeting between counsel and the funded consultants to prepare a preliminary proposed position.
8. The preliminary proposed position then will be reviewed with the community. This review with the community will take place either at Group meetings or workshops. Upon completion of this review, negotiations with the Proponent will start.

Mr. Rudolph said the Group will hold additional community meetings, as required, as the "give and take" of the negotiations with the Proponent progress. He also said, "The described process is not carved in stone but is an expression of our intentions at this time."

The Funding Panel asked whether there is enough time to prepare a community impact agreement for the first week of February. While there were differing opinions on whether an agreement could be developed by that time, everyone agreed the project should get underway.

This willingness to "move ahead" and work to a tight deadline is an important statement of good faith by all those involved.

A detailed review of the two applications for funding followed.

It was agreed that the funding is for the purposes set out in the Order in Council and is to cover all acceptable expenses incurred since the Order in Council was issued on October 28, 1992.

Both the Group and the Las' requested funding for personal time and disbursements.

The Proponent reiterated there is a history of extensive, unpaid community involvement in the waste management master planning process. As a result, it was agreed the time spent by community members working on the preparation of the community impact agreement will replace any requirement to raise funds.

Disbursements incurred by the Group and the Las' are acceptable. Disbursement are to include photocopying, postage and other mailing costs, fax/long distance costs, parking fees and general office supplies. All claims for disbursements are to be accompanied by a receipt. Room rentals are an acceptable disbursement only if a public facility is not available.

The Proponent generally agreed with the Group's budget for consultants. However, the Proponent wanted to know what the appraiser (Kellough, Pestl, Singh Associates Inc.) is expected to do.

The Group explained that the appraiser is to determine whether those outside the present 500 metre impact zone established by the Proponent will be affected by the proposed landfill. If they are affected, the Group feels they should be included in any community impact agreement.

Because there was a lack of detail in the appraiser's proposal, it was agreed that a maximum of \$17,250 will be provided for Kellough, Pestl, Singh Associates Inc. conditional upon the submission of a detailed work plan that explains the purpose of each activity and is approved by the Proponent, or if necessary, the Funding Panel.

The Las' live outside the present 500 metre impact zone. They are primarily concerned about being included in any community impact agreement. They want the Proponent to cover the cost of their property being appraised at the time of sale.

The Las' said if the Proponent wrote them a letter indicating a commitment to consider including them in the proposed Property Protection Plan, they would not need funding for an appraiser now. Mr. Richardson agreed to write the Las' such a letter. The Las' withdrew their request for funding. (Reconsideration of the Las' request for funding is discussed later.)

Additional agreed-upon conditions for funding the Group's consultants include:

1. Timetables for the completion of final reports/memos are to be forwarded to the Proponent, as soon as possible.
2. A progress statement or preliminary report from each consultant is due on Wednesday, January 27, 1993. A copy of each is to be provided to the Proponent.
3. A copy of all final reports/memos is to be provided to the Proponent.

Funding for 200 hours at the legal rate for intermediate counsel is to be provided.

The Group feels more hours will likely be required to complete the project. However, acceptance of that level of funding was based on a desire by all those involved to move ahead with the project.

Legal disbursements represent 10 per cent of projected legal fees.

The Proponent wanted to know how claims are handled.

The procedures used by the Environmental Assessment Board were briefly explained. A copy of the Environmental Assessment Board's **General Principles for Submissions of Claims** will be provided to all funded participants and the Proponent. As well, conditions for filing claims are to be included in the Funding Panel's decision.

It also was noted that under Section 10b of the Order In Council:

If a participant fails without reasonable cause to comply with the conditions of an award, the participant and its directors and officers shall be jointly and severally liable to repay to the Grimsby, Pelham, Lincoln and West Lincoln Waste Management Committee the amount of the award, or such part thereof, as the Funding Panel may order.

It was agreed that the contact person for the Landfill Concerned Citizens Group will be Mr. Manfred Rudolph of Turkstra, Garrod, Hodgson. All claims for funding by the Group, its consultants and counsel will be made by Mr. Rudolph.

The contact person for the Proponent, the Grimsby, Pelham, Lincoln and West Lincoln Waste Management Committee, will be Mr. T.A. Richardson of Sullivan, Mahoney. Mr. Richardson will receive all notices/summary of payments from the Ministry of the Environment's Financial and Capital Management Branch.

The meeting concluded with a review of the funding allocations and the conditions for the funding. There were no outstanding areas of disagreement.

As agreed, the Funding Panel confirmed the negotiated agreement in an oral decision. A summary of the oral decision was made available on December 22, 1992.

RECONSIDERATION OF THE REQUEST FOR FUNDING BY THE LAS'

The Funding Panel received a letter from Mr. T.A. Richardson on December 29, 1992 saying that after the December 21st meeting, staff of the Town of Grimsby had met with Mary and Stanley Las.

Mr. Richardson reported that the Las' wanted to receive funding in order to retain an appraiser to advise them on the Property Protection Plan proposed by the Proponent.

He advised the Funding Panel that "... it has been our client's position that it welcomes input from the residents with respect to the Property Value Protection Plan." Therefore, "This proposal by Mr. and Mrs. Las is entirely in keeping with the efforts of our client to negotiate such a policy."

The Funding Panel was requested to revise the decision to include an allocation of a maximum of \$2,000 for the Las' to retain an appraiser to advise them on the property protection plan.

The Funding Panel informed both Mr. Richardson and the Las' that the final decision would include reference to this agreement.

DECISION

The negotiated agreement reached between the Landfill Concerned Citizens Group and the Grimsby, Pelham, Lincoln and West Lincoln Waste Management Committee is confirmed as follows:

1. Participant funding to a maximum of \$124,043.38 is provided to the Landfill Concerned Citizens Group as set out in Schedule A.
2. Timetables for the completion of final reports/memos by all consultants are to be forwarded to the Proponent as soon as possible.
3. A progress statement or preliminary report from each consultant is due on Wednesday, January 27, 1993; a copy of each is to be provided to the Proponent.
4. A copy of all final reports/memos by all consultants is to be provided to the Proponent.

5. Kellough, Pestl, Singh Associates Inc. (Appraisers, Business and Real Estate Economists) is awarded a maximum of \$17,250.00 conditional on the submission of a detailed work plan that explains the purpose of each activity and is approved by the Proponent, or, if necessary, the Funding Panel.
6. Acceptable disbursements include photocopying, postage and other mailing costs, fax/long distance costs, parking fees and general office supplies.
7. Room rentals are an acceptable disbursement only if a public facility is not available.
8. All claims for disbursements must be accompanied by a receipt.
9. Legal disbursements is 10 per cent of the legal fees which are to be calculated on the legal aid rate of \$75.38.
10. The contact person for the Landfill Concerned Citizens Group is Mr. Manfred Rudolph of Turkstra, Garrod, Hodgson.

The negotiated agreement reached between Mary and Stanley Las and the Grimsby, Pelham, Lincoln and West Lincoln Waste Management Committee is confirmed as follows:

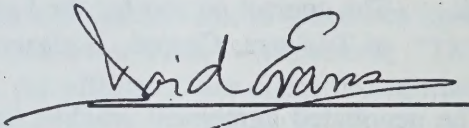
1. Participant funding as set out in Schedule B, to a maximum of \$2,140, is provided to Mary and Stanley Las for retaining an appraiser to advise them on the Property Protection Plan proposed by the Proponent.

In addition, the following conditions apply to both the Landfill Concerned Citizens Group and the Las':

1. This participant funding is provided only for those purposes set out in the Order In Council dated October 28, 1992 and covers acceptable expenses incurred from October 28th until the completion of the project.
2. Claims for funds pursuant to this participant funding program shall be made in accordance with the Environmental Assessment Board's "General Principles for the Submission of Claims."
3. Claims for funds are to be submitted monthly to the Finance and Capital Management Branch, Ministry of the Environment using the "Request for Funds" form provided.
4. Any G.S.T. rebates received by the participants shall be returned to the Finance and Capital Management Branch for remittance to the Proponent.

5. At the end of the project, or at the end of either funded participants' involvement in the program, a financial report to the Funding Panel accounting for all funds received under this participant funding program shall be submitted.
6. If a participant fails without reasonable cause to comply with the conditions of an award, the participant and/or its directors and officers shall be jointly and severally liable to repay to the Grimsby, Pelham, Lincoln and West Lincoln Waste Management Committee the amount of the award, or such part thereof, as the Funding Panel may order.

DATED at TORONTO this 4TH day of JANUARY, 1993



David Evans
Funding Panel

PARTICIPANT FUNDING ALLOCATION

SCHEDULE A

Participant: Landfill Concerned Citizens Group

OC-92-01(F)

CONSULTANTS

<u>AREA OF STUDY</u>	<u>FEES & DISBURSEMENTS</u>	<u>GST (7%)</u>	<u>TOTAL</u>
	\$	\$	\$
1. Landfill Design and Operations – H.C.I.	15,600.00	1,092.00	16,692.00
2. Hydrogeology – Waterloo/Geoscience	10,750.00	752.50	11,502.50
3. Hydrogeology – C.E.C.	3,000.00	210.00	3,210.00
4. Environmental Appraisal/Agriculture/Gull Study/EA–Master Plan Study –ESP	31,814.00	2,226.98	34,040.98
5. Air Quality, Dust & Noise / Noise – RWDI	11,365.00	795.55	12,160.55
6. Traffic Analysis – Parker	3,850.00	269.50	4,119.50
7. Planning and Land Use – Planning Initiatives	4,620.00	323.40	4,943.40
8. Property Value – KDSA Inc.	17,250.00	1,207.50	18,457.50
Total Experts (including holdback)	98,249.00	6,877.43	105,126.43

<u>GROUP'S DISBURSEMENTS</u>	<u>DISBURSEMENT</u>	<u>GST (7%)</u>	<u>TOTAL</u>
Photocopying			
Mail			
Long-Distance & Fax			
Parking			
Supplies			
Room Rental			
Total Group's Disbursements:	1,750.00	122.50	1,872.50

<u>LEGAL</u>	<u>HOURS</u>	<u>RATE/HOURS</u>	<u>LEGAL FEES</u>	<u>GST @ 7%</u>	<u>TOTAL</u>
		\$	\$	\$	\$
Intermediate counsel	200	75.38	15,076.00	1,055.32	16,131.32
Disbursements			1,507.60	105.53	1,613.13
Total Legal:			16,583.60	1,160.85	17,744.45

SUB-TOTAL ALLOCATION:	8,160.78	124,743.38
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Funds contributed by the Group:	700.00
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TOTAL ALLOCATION:	8,160.78	124,043.38
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PERSON/FIRM RESPONSIBLE FOR FUNDS:
(cheques will be issued in trust to this person)

Manfred Rudolph
Turkstra Garrod Hodgson
15 Bond Street
Hamilton, Ontario
L8P 1T3
Phone: (416) 595-3476
Fax: (416) 529-3663

PARTICIPANT FUNDING ALLOCATION

SCHEDULE B

Participant: Mary and Stanley Las

OC-92-01(F)

CONSULTANTS

<u>AREA OF STUDY</u>	<u>FEES &</u>		<u>TOTAL</u>
	<u>DISBURSEMENTS</u>	<u>GST (7%)</u>	
	\$	\$	\$
1. Appraisal of Residence and Lands	2,000.00	140.00	2,140.00
TOTAL ALLOCATION:		<u>140.00</u>	<u>2,140.00</u>

PERSON/FIRM RESPONSIBLE FOR FUNDS:
(cheques will be issued in trust to this person)

Mr. & Mrs. Stanley Las
7005 Young Street
R.R. #3
Smithville, Ontario
L0R 2A0
Phone: (416) 957-3197

NOTICE OF FUNDING PROGRAM



PARTICIPANT FUNDING MEETING NIAGARA ROAD 12 LANDFILL SITE

The Environmental Assessment Board has been asked by the Ontario Cabinet to work with the community in distributing funds set aside by the Grimsby, Pelham, Lincoln and West Lincoln Waste Management Master Plan Committee regarding their proposal to establish a solid non-hazardous waste disposal facility at the Niagara Road 12 Site location in the Township of West Lincoln.

The participant funding is to serve the general purpose of assisting groups or individuals who lack the necessary resources to review documentation and inform themselves of the process and issues involved in the landfill component of the West Management Master Plan.

More specifically, the participant funding is to assist groups or individuals to participate in the preparation of a community impact agreement designed to ensure suitable mitigation or compensation to members of the public in consequence of potential or actual impacts from the establishment and operation of the Niagara Road 12 Landfill Site.

A meeting is being held to determine:

- who is eligible for funding;
- criteria for distributing the funding; and
- how to apply for funding.

The meeting, chaired by a member of the Environmental Assessment Board, will be held on:

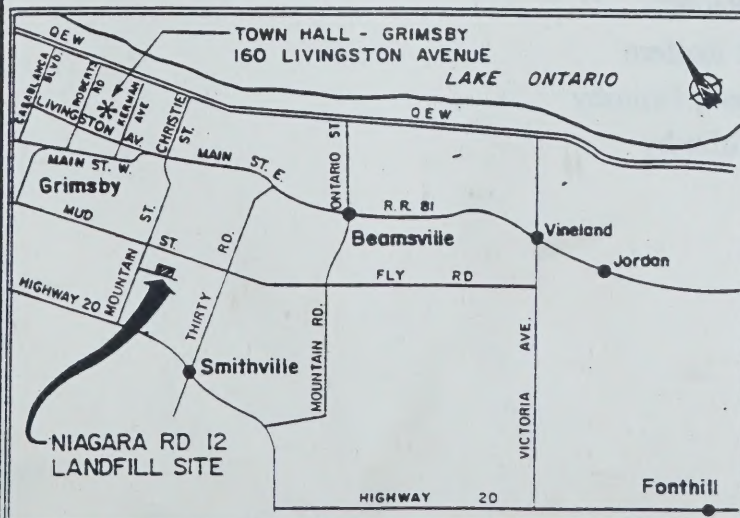
Date: Saturday, December 5, 1992
Time: 1:00 p.m.
Place: Council Chambers
 Town of Grimsby Municipal Building
 160 Livingston Ave.
 Grimsby, Ontario

In preparation for the December 5th meeting, groups or individuals planning on participating are requested to contact the Environmental Assessment Board's Secretary to obtain a copy of Order in Council 3171/92 that sets out the terms and conditions for the distribution of the funding.

The Environmental Assessment Board offices are located at 2300 Yonge Street, Suite 1201, Toronto, Ontario M4P 1E4, Phone (416) 323-4806, Fax (416) 323-4997. The Board accepts collect calls.

DATED at TORONTO this 19th DAY of NOVEMBER, 1992.

James Curren
 Board Secretary



(Pour obtenir un exemplaire de cet avis en français, veuillez vous adresser à la Commission des évaluations environnementales, en composant le (416) 323-4806.)

THOSE WHO ATTENDED THE MEETING ON DECEMBER 5, 1992

Peter Cronin, Town of Grimsby
Mike Bonomi, Sullivan & Mahoney
David Schram, Proctor & Redfern
Liz Fulford, Resident, Grassie
Joyce Fulford, Resident, Grassie
Warren John, Resident, Grassie
Markin Poos, Town of Grimsby
Mary Haurilak, Grimsby Independent
Joe Casuccio, Resident, Stoney Creek
Bob Leroux, Town of Grimsby
Silvio Mucciarelli, Town of Grimsby
Tom Richardson, Sullivan & Mahoney
Dan Shatil, Ministry of the Environment
Jack Coop, Counsel, Ministry of the Environment
Zenon Paszkat, Resident, Grimsby
Stanley & Mary Las, Resident, Smithville
Frank Toth, Resident, Smithville
Julie Cascio, Resident, Grimsby
John Philippeos, Resident, Grimsby
Michele Cascio, Resident, Grimsby
Penny Rayner, Resident, Grimsby
Ivan Stancec, Resident, Grimsby
J. Nation, Resident, Grassie
Susan Girt, Proctor & Redfern
Steve Plaice, Proctor & Redfern
Rasoi Albomese, Resident, Grimsby
V. Berzins, Resident, Grimsby

THOSE WHO ATTENDED THE MEETING ON DECEMBER 21, 1992

Stanley & Mary Las, Resident, Smithville
Frank Toth, Resident, Smithville
John Philippeos, Resident, Grimsby
Ivan Stancec, Resident, Grimsby
Manfred Rudolph, Turkstra Garrod Hodgson
Tom Richardson, Sullivan & Mahoney
Bob Leroux, Town of Grimsby
Steve Plaice, Proctor & Redfern
David Schram, Proctor & Redfern
Norman Hubert, Resident, Grimsby
Joyce Fulford, Resident, Grassie
Warren H. Fulford, Resident, Grassie
Silvio Mucciarelli, Town of Grimsby
Jack Coop, Counsel, Ministry of the Environment
Zenon Paszkat, Resident, Grimsby
Joe Casuccio, Resident, Stoney Creek

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NIAGARA RAOD 12 SITE PARTICIPANT FUNDING

**RESOURCE CENTRE
INST. FOR ENVIRON'L. STUDIES
UNIVERSITY OF TORONTO**



